

Bentonville City Council
Meeting Minutes
March 23, 2010

The City Council of Bentonville, Arkansas met in regular session, Tuesday, March 23, 2010 at 6:00 p.m. in the Community Development Building, Planning Commission Meeting room, 305 SW A St., Bentonville, Arkansas. Present were Council Members Mary Baggett, Jim Grider, Ed Austin, Shane Perry, James Dotson, Bill Burckart and Ryan Parks. Council Member Chris Sooter was absent. Also present were Mayor Bob McCaslin, City Attorney George Spence, City Clerk Suzanne Grider, the press, city staff, and the audience.

Mayor Bob McCaslin called the meeting to order and asked everyone to join him in saluting our nation's flag. After the pledge, there was a moment of silence for our military forces and the invocation was given by Ken Ferguson of World of Life Fellowship.

Mayor McCaslin gave the oath of office to Police Officer Venessa Cerasale.

Motion was made by Council Member Baggett, seconded by Council Member Burckart to approve the minutes of the regular meeting minutes of March 9, 2010 as written. Motion carried (7-0) of those present with Council Member Sooter absent.

Motion was made by Council Member Austin, seconded by Council Member Grider to suspend the rules regarding the reading of all ordinances and resolutions on three separate days and further move that they be read by title only. Motion carried (7-0) of those present with Council Member Sooter absent.

Ia. City Attorney George Spence read by title only Ordinance #(2010-25) accepting a plat of Thaden Addition to the City of Bentonville, Arkansas.

Motion was made by Council Member Austin, seconded by Council Member Grider to suspend the rules regarding the reading of this ordinance on three separate days and further move that this ordinance be read by title only. Motion carried (7-0). City Attorney George Spence read the ordinance by title only. Motion was made by Council Member Grider, seconded by Council Member Burckart that the ordinance do pass. Motion carried (7-0) of those present with Council Member Sooter absent.

1b. Mayor Bob McCaslin declared a public hearing open at 6:04 p.m. to hear comments for and against this street right of way vacation. No one had any comments so Mayor McCaslin declared the public hearing closed at 6:05 p.m.

City Attorney George Spence read by title only Ordinance #(2010-26) vacating a right of way located at NE John DeShields Boulevard and all that portion of the street lying west of NE J Street to the City of Bentonville, Arkansas, Benton County, Arkansas, requested by Crystal Bridges Museum.

Motion was made by Council Member Austin, seconded by Council Member Grider to suspend the rules regarding the reading of this ordinance on three separate days and

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further move that this ordinance be read by title only. Motion carried (7-0). City Attorney George Spence read the ordinance by title only. Motion was made by Council Member Grider, seconded by Council Member Burckart that the ordinance do pass. Motion carried (7-0) of those present with Council Member Sooter absent.

Ic. City Attorney George Spence read by title only Resolution #(03-23-10A) setting a public hearing for April 13, 2010, with regard to vacating a street right of way requested by Compton Gardens for all of NE 5th St. that is north of Lot 1 of Compton Addition.

Motion was made by Council Member Baggett, seconded by Council Member Grider to adopt the resolution. Motion carried (7-0) of those present with Council Member Sooter absent.

II. Budget adjustment in the amount of \$500.00 for the Bentonville Public Library from a mini-grant for general improvement funds received from the Arkansas State Library to be used to purchase a digital display monitor and appropriate hardware for the children's department story time space.

Motion was made by Council Member Grider, seconded by Council Member Baggett to approve a budget adjustment for the library in the amount of \$500.00. Motion carried (7-0) of those present with Council Member Sooter absent.

III. City Attorney George Spence read by title only Ordinance #(2010-27) repealing Section 3 through Section 10 of Ordinance #2005-40 and adopting new operating policies and procedures for the Airport Advisory Board.

Motion was made by Council Member Austin, seconded by Council Member Grider to suspend the rules regarding the reading of this ordinance on three separate days and further move that this ordinance be read by title only. Motion carried (7-0). City Attorney George Spence read the ordinance by title only. Motion was made by Council Member Grider, seconded by Council Member Baggett that the ordinance do pass. Motion carried (7-0) of those present with Council Member Sooter absent.

IV. City Attorney George Spence read by title only Resolution #(03-23-10B) adopting an amendment to a certain standard operating guideline for the City of Bentonville Fire Department. (Controlled Medications).

Motion was made by Council Member Grider, seconded by Council Member Baggett to adopt the resolution. Motion carried (7-0) of those present with Council Member Sooter absent.

V. City Attorney George Spence read by title only Resolution #(03-23-10C) authorizing the mayor and clerk to enter into an agreement with Bentonville Medical Associates for firefighter physicals for the City of Bentonville.

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Motion was made by Council Member Grider, seconded by Council Member Burckart to adopt the resolution. Motion carried (7-0) of those present with Council Member Sooter absent.

VI. City Attorney George Spence read by title only Ordinance #(2010-28) amending the Bentonville Municipal Code pertaining to the licensing requirements for dogs and declaring an emergency.

Motion was made by Council Member Austin, seconded by Council Member Grider to suspend the rules regarding the reading of this ordinance on three separate days and further move that this ordinance be read by title only. Motion carried (7-0). City Attorney George Spence read the ordinance by title only. Motion was made by Council Member Grider, seconded by Council Member Baggett that the ordinance do pass. Motion carried (7-0) of those present with Council Member Sooter absent. Motion was made by Council Member Grider, seconded by Council Member Baggett to approve the emergency clause. Motion carried (7-0) of those present with Council Member Sooter absent.

VII. Settlement discussion of Tim Marta versus City of Bentonville – Arkansas Municipal League Defense Attorney will be in attendance.

Mayor McCaslin stated that in 2007 this case was handled by our Staff Attorney and the Arkansas Municipal League Attorney. Mayor McCaslin stated that they have his full support on this and it is in the best interest of the City to settle this case.

Mike Moseley, Arkansas Municipal League Attorney, stated that a wrongful termination lawsuit was filed in April of 2007 by Tim Marta. Mr. Marta claimed his civil rights were violated and his termination violated the Arkansas Whistleblower Act. The suit has gone through litigation and is currently being appealed to the Arkansas Supreme Court. Mr. Mosley stated that he could not guarantee an outcome and because of the risks associated with taking it before a jury and the attorney's fees which in this case our coverage is \$65,000. Mr. Mosely recommended to the city council that they enter into a settlement. The conditions of the settlement call for \$130,000 to be paid to Marta, which includes all costs and attorney fees. The Arkansas Municipal League Defense Program would pay \$65,000 and the City would pay \$65,000. Marta will also be allowed to submit a letter of resignation to the City under the settlement. Marta is currently in bankruptcy and the bankruptcy court would have to accept the settlement terms also before it can be done. Staff Attorney Camille Thompson stated she was also recommending a settlement.

Motion was made by Council Member Grider, seconded by Council Member Baggett to accept the settlement agreement proposed. Motion carried 6-1 of those present with Council Members Parks, Perry, Baggett, Grider, Burckart, and Austin voting yes, Council Member Dotson abstained and Council Member Sooter was absent.

Mayor McCaslin stated he would like to bring it to the council's attention of the Grand Opening of Gilmore Park on Saturday, April 3 at 11:00 a.m. at the corner of SW "D" St. and SW 5th St. Mayor McCaslin stated that our next meeting will be on April 12 and 13th with a Committee of

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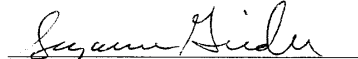
Whole on the 12th.

Council Member Bill Burckart stated that he is happy to announce the he is working on Rebuilding Together project in Bentonville. April 3rd is the demolition day and we have a lot of volunteer days scheduled. Please let me know if any of you would like to participate.

Troy Galloway, Community Development Director, also had an update concerning the roof of the Community Development Building. Mr. Galloway stated that during the budget meetings we budgeted to replace the roof because of so many leaks, but Mr. Galloway stated he was happy to report that after meetings with Wittenberg, Deloney and Davidson, VEI, and Franklin and Sons is it likely we will not have to use the money. VEI and Franklin and Sons are doing weekly inspections after doing repairs to existing leaks. Currently we are not showing any leaks. They will be extending the warranty on the roof and Firestone has given a 10 year period guarantee on the roofing material.

Motion was made by Council Member Grider, seconded by Council Member Dotson to adjourn the meeting. Motion carried (7-0) of those present with Council Member Sooter absent.


Bob McCaslin, Mayor


Suzanne Grider, City Clerk